

**Summary:** The Defendant filed a motion to appoint counsel to assist in applying for habeas corpus relief. The Court denied the motion, finding that there is not a constitutional right to counsel in habeas corpus proceedings, that the interests of justice do not require the appointment of counsel, and that neither the claims nor the facts giving rise to them appear to be complex.

**Case Name:** USA v. Billy Dean Sandland

**Case Number:** 1-07-cr-100

**Docket Number:** 42

**Date Filed:** 12/18/08

**Nature of Suit:**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

United States of America,	)	
	)	
Plaintiff,	)	<b>ORDER DENYING DEFENDANT’S</b>
	)	<b>MOTION FOR APPOINTMENT</b>
vs.	)	<b>OF COUNSEL</b>
	)	
Billy Dean Sandland, a/k/a Bill Sandland,	)	
Wild Bill Sandland, Wild Bill,	)	
	)	Case No. 1:07-cr-100
Defendant.	)	
_____	)	
	)	
Billy Dean Sandland, a/k/a Bill Sandland,	)	
Wild Bill Sandland, Wild Bill,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 1:08-cv-106
	)	
United States of America,	)	
	)	
Respondent.	)	

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Before the Court is the Defendant’s “Motion for Appointment of Counsel” filed on December 16, 2008. See Docket No. 41. On December 16, 2008, the defendant, Billy Dean Sandland, filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2255. See Docket No. 39. Sandland

provides no explanation as to why the appointment of counsel is necessary.

There is neither a constitutional nor statutory right to counsel in habeas proceedings. See Morris v. Dormire, 217 F.3d 556, 558 (8th Cir. 2000); Blair v. Armontrout, 916 F.2d 1310, 1332 (8th Cir. 1990); see also Boyd v. Goose, 4 F.3d 669, 771 (8th Cir. 1993) (explaining that a habeas corpus proceeding is a civil proceeding to which the Sixth Amendment right to counsel afforded for criminal proceedings does not apply). However, the Court may appoint counsel for a habeas petitioner at any time if it finds that the “the interests of justice so require.” See 18 U.S.C. § 3006A(a)(2). If a court conducts an evidentiary hearing on the petition, the interests of justice require that the petitioner be appointed counsel. See Rule 8(c), Rules Governing Section 2255 Cases in the United States District Courts; see also Abdullah v. Norris, 18 F.3d 571, 573 (8th Cir. 1994). “If no evidentiary hearing is necessary, the appointment of counsel is discretionary.” Abdullah, 18 F.3d at 573.

When exercising its discretion, a court should determine whether, given the particular circumstances of the case, “the appointment of counsel would benefit the petitioner and the court to such an extent that ‘the interests of justice so require’ it.” Id. (citing 18 U.S.C.A. § 3006A(a)(2); Battle v. Armontrout, 902 F.2d 701, 702 (8th Cir.1990)). Thus, a court should consider a number of relevant factors, including the factual complexity of the case and the petitioner’s ability to investigate and present his claim. See Abdullah, 18 F.3d at 573; see also Battle, 902 F.2d at 702; Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir.1986).

The interests of justice do not require the appointment of counsel for Sandland at this stage of the proceedings and there is no necessity for an evidentiary hearing at this time. Moreover, although Sandland raises numerous claims in his petition for habeas corpus relief, neither the claims

nor the facts giving rise to them appear to be complex. Consequently, Sandland's motion for appointment of counsel (Docket No. 41) is **DENIED** without prejudice.

**IT IS SO ORDERED.**

Dated this 18th day of December, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge  
United States District Court